19 49. **File No.** Prohibition II/49 (H)

PIUF Legal Deptt.

B BRANCH

Subject:— Notifications under the Bombay Prohibition Act 1949

File No. Prohibition II/49 (H)

Gen. 194

457-B

Legal Department.

Twenty seven revised draft notification in lace of the proposed 18 draft notifications on ages 5-79 ante are sent herewith.

R.D. draft notifications 1 to 6:- It has een understood from the Office of the Commissioner f Excise that that Office did not propose similar otifications for the Indian States and the Kolhapu State, because it was considered that the proposed otifications 1 to 6 would automatically apply to he said States. This view is not correct. It is ecessary to issue similar notifications for the aid States also. Requisite draft notifications in hat behalf have therefore been sent herewith.

R.D. draft notification No. 7 on page 23 ante: Under this notification, it is proposed to regulat inter alia the import, export, transport or consum tion of certain intoxicants. It is therefore provided that the import etc. of the intoxicants specified inthe Schedule to the notification by an person shall be permitted in such quantities as are specified against them. From the Schedule, it however, appears that in respect of certain intoxicants the limit of import, export, transpor or consumption is nil. This in effect therefore prohibits the import, export, transport or consum tion of the said intoxicants. This is not legall feasible under section 139(b) inasmuch as the pow to regulate does not include the power to prohibi For the word nil a dash is therefore substitute in the Schedule. Notification 16 of the Revenue Department draft has been similarly revised.

R.D. draft notification No.8- (a) This is proposed to be issued under section 143(1) read with sections 29 and 139(d). Reference to S 139(d) is made to cover the proposed rule 4

the Revenue Department draft. Section 139(d) empowers Government by special or general order to exempt any intoxicant from the provisions of the Act, while section 143 empowers Government to frame rules. Reference to section 139(d) has therefore been omitted from the revised draft Notification. A separate draft Order under section 139(d) to cover rule 4 in the Revenue Department draft is, however, sent herewith.

(b) Section 29 specifically provides for prescribing passes for through transport. The revised draft rule 3 of the Through Trnasport Rules therefore provides that the through transport of any consignment of any intoxicant etc. shall be covered by a pass granted bythe Collector or the Chief Excise Authority of the place from which it is consigned; provided that such pass contains the particulars specified in the Revenue Departmnet draft rule 3(2).

(c) The rules require previous publication under sub-section (3) of section 143; but previous publication can be dispensed with if the Provincial Government considers that they should be brought into force atonce. The same remarks apply to Revenue Department draft notifications 9 and 17 on pages 35 and 69 ante.

R.D. draft notifications 11 and 13 and 12 and 14. One notificationonly for extending the Prohibition Act to the Indian States and the Kolhapur State is sent herewith. Similarly one notification for Revenue Department notifications 12 and 14 is sent herewith.

Draft Notification No. 15 at page 51:- (a) It has been decided not to be change the name of the Excise Department or the designation of Excise Officers. According to section 2(35) all the Officers who are invested with powers under the Act shall b

Prohibition Officers.

(b) As regards the Officers of the Central Government to whom it is proposed to grant powers under certain provisions of the Prohibition Act, it is presumed that consent of the Central Government has already been obtained for granting them such powers.

(c) As regards the limits of the Peint Taluka (petha) and Akrani Mahal, they are partially excluded areas and these areas cannot be included in the draft notification under section 6 unless the Prohibition Act is applied to these areas.

R.D. draft notification No. 17:- Revised draft notification is sent herewith. Under section 143(1) of the Prohibition Act read with paragraph (3) of the Indian States and Kolhapur State (Application of Laws) Order, the proposed rules would extend to Indian States, and the Kolhapur State only and not the Provinc of Bombay & also. The through transport would therefore be restricted to these States only. It would not therefore be correct to provide that the rules extend to the Province of Bombay including the Indian States and the Kolhapur State. The extent clause has therefore been suitably revised.

The rules have been revised on the lines of the Revenue Department draft notification No. 8.

Section 290A(1) of the Government of India Act, 1935, which was recently inserted by India Act I of 1949 provides that where full and exclusive authority, jurisdiction and powers for and in relation to the governance of any Indian State or of any group of such States are for the time being exercisable by the Dominion Government, the Governor-General may by order direct :-

(a) ----------

(b) that the State or the group of S shall be administered in all respects as if the

or the group of States formed part of a Governor's Province specified in the Order.

So long therefore as the Governor-General has not issued any Order under the aforesaid provision directing that any State or group of States shall be administered as if the State or group of States formed part of the Province of Bombay, no Indian State can be deemed to form part of the Province of Bombay. The view expressed by Revenue Department in paragraph 20 on page 84 ante in this behalf is not correct. It would therefore be necessary to issue separate notifications, similar to those issued for the Province of Bombay, in virtue of the provisions of the Bombay, Prohibition Act, 1949, read with paragraph 3 of the Indian States (Application of Laws Order, 1948, and the Kolhapur State (Application of Laws) Order, 1949, in respect of the Indian States & the Kolhapur State. The requisite draft notification have accordingly been sent herewith.

Id/-J.R.D. 4/6
Additional Secretary to Government.

U.R. to R. D., No. 6162, dated the 4th June 1949.

BRS. 19/6/ 4c.

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Legal Department.

It is understood that Abkari licences were granted to persons in the Baroda State and they will remain in force till the end of July next. The Bombay Abkari Act, 1878, was not applied to the Baroda State. If the Prohibition Act is applied to the Baroda State as proposed on the 16th instant, it will be necessary to consider the question of these licences. Similarly Revenue Department will have to decide which Officers should be invested with powers under the Prohibition Act.

2. Proviso to sub-section (2) of section 60 of the Prohibition Act, provides for specifying the vacation period in respect of specified areas during which no permit, pass, etc. is necessary for collection, transport, etc. of mhowra flowers. Before therefore the Prohibition Act is applied to Baroda State, it will be necessary for the Revenue Department to determine such areas and vacation periods.

3. The Revenue Department is therefore requested to return these papers to this Department for supplying the necessary draft notifications after the above points are decided.

4. The Revenue Department papers regarding application of the Act to the Province and other Indian States have been returned to the Revenue Department.

Id/-J.R.D. C/6
Additional Secretary to Government.

U.R. to R. D., No. 6375, dated the 6th June 1949.

BKS. 19/6/ 4c.

Legal Department.

The proposal in the linked case is to extend

(1) The Bombay Prohibition Act, 1949.

(2) Section 29A of the Bombay Abkari Act, 1878.

(3) The Bombay Opium Smoking Act, 1936.

(4) The Dangerous Drugs Act, 1930.

to the Danta State.

The main reasons for applying the above four Acts is that, as stated by the Deputy Excise Commissioner at page 23 in the linked file, there are no Statutory Excise laws in the Danta State and that therefore it is difficult to run the Excise Administration in that State efficiently.

In the absence of any Statutory Law the orders of Commissioner have no legal basis. The arrangements already made will have legal validity only from the date the said Order extending the aforesaid four Acts is issued.

Id/-J.R.D. 29/7
Additional Secretary to Government

U.M. to R.D., No. 8162 dated the 19th July 1949.

BKD. 19/6/ 4c.

DRAFT NOTIFICATION.

Revenue Department.

Bombay Castle, 1949.

No._____, In exercise of the powers conferred by section 105 of the Bombay Prohibition Act, 1949 (Bom. XXV of 1949) read with paragraph 3 of the Baroda State (Application of Laws) Order, 1949, the Government of Bombay is pleased to direct that, with effect from the 1st day of August 1949, an excise duty or countervailing duty, as the case may be, shall be imposed on country liquor transported or imported for consumption in to or into any area specified in column 2 of the Schedule hereto annexed at the rates respectively specified against it in columns 3 and 4 of the said schedule.

Provided that no such duty shall be payable on country liquor imported into the Dominion of India and which was liable on such importation to duty under the Indian Tarriff Act, 1934 or the Sea Customs Act, 1878 :-

Provided further that if country liquor on which duty has been paid for its transport or import to or into any area is transported to any other area, the duty leviable for transport of country liquor to which area is higher than that already levied, only the difference between such higher duty and that already levied shall be paid.

Explanation . - The expression "country liquor" shall not include any liquor, which under clause (17) of section 2 of the Bombay Prohibition Act, 1949, the Provincial Government has declared shall be deemed to be foreign liquor for the purposes of the said Act.

Schedule.

Serial No.	Areas.	Rate of duty per imperial gallon of the strength of- 65° U.P.	London Proof
1	2	3	4
1.	Baroda City and 5 miles round Baroda City.	Rs. as. ps. 8- 12- 0	Rs. as. ps. 25 - 0 - 0
2.	Rest of the Baroda State.	5- 4 - 0	15- 0 - 0

By order of the Governor of Bombay,

BKS. 19/6/ 4c. Secretary to Government

DRAFT NOTIFICATION.

Revenue Department.

Bombay Castle, 1949.

No._____, In exercise of the powers conferred by section 109 of the Bombay Prohibition Act, 1949, (Bom.XXVof 1949), read with paragraph 3 of the Baroda State (Application of Laws) Order, 1949 the Government of Bombay is pleased to direct that, with effect from the 1st day of August 1949, in the areas specified in column 1 of the Schedule appended hereto a duty shall be levied for every coconnut, brab, date or wild palm tree from which toddy is drawn, for the period during which such tree is tapped or licensed to be tapped, -

(a) - In the case of coconnut and brab trees at the rates specified in column 2 of the said Schedule; and

(b) in the case of date and wild palm trees at the rates specified in column 3 of the said Schedule:

SCHEDULE.

Areas inwhich duty is to be levied.	Rate of duty per annum per coconnut or brab tree tapped or licensed to be tapped.	per date or wild palm tree tapped or licensed to be tapped.
1.	2.	3.
	R. as. ps.	R. as. ps.
1. The following talukas and Bhag of the Baroda State, namely :-		
(a) Songadh Taluka.	8 - 0 - 0	4 - 0 - 0
(b) Sankal and Umarpada Bhag.		
(c) Savli Taluka		
(d) Waghodia Taluka		
(e) Sankheda Taluka		
(f) Vilakwada Taluka		
2. Rest of the Baroda State.	24- 0- 0	12 - 0 - 0

Provided that if toddy drawn from any such trees in any area for which duty at a lower rate is prescribed under this notification is intended for sale in any other area in which duty at a higher rate is prescribed, a duty at such higher rate shall be levied for every such tree.

By order of the Governor of Bombay,

Secretary to Government.

B.J. 19/6/ 40.

DRAFT NOTIFICATION.

Revenue Department.

Bombay Castle, 1949.

No._____. In exercise of the powers conferred by section 105 of the Bombay Prohibition Act,1949 (Bom.XXV of 1949), read with paragraph 3 of the Baroda State (Application of Prohibition Laws) Order, 1949, the Government of Bombay is pleased to direct that, with effect from the 1st day of August 1949, an excise duty or countervailing duty, as the case may be, shall be imposed on the exciseable articles specified in column 1 of the Schedule hereto annexed at the respective rates specified in column 2 thereof, when such exiasble articles are :-

(i) - imported into the Baroda State in accordance with the provisions contained in Chapter IV of the said Act;

or

(ii) - issued from any distillery, manufactory or warehouse established or licensed under the said Act in the Baroda State.

or

(iii) - transported from a distillery, manufactory or a warehouse established or licensed under the said Act in the Baroda State in accordance with the provisions contained in Chapter IV of the said Act.

Provided that no such duty shall be imposed on the exciasble articles (i) which have been imported into the Dominion of India and were liable on such importation to duty under the Indian Tariff Act, 1934 or the Sea Customs Act 1878;

or

(ii) which have been previously imported, transported or manufactured on payment of excise or countervailing duty at rates not less than those specified

the Schedule.

Provided further that if an excise duty or countervailing duty x has already been paid on such excisable articles for their import, issue or transport for consumption into, to on within any place in the Baroda State the amount of duty to be imposed shall be the difference between the amount of duty leviable at the rates specified in the said Schedule and that already paid on such articles.

SCHEDULE.

x x x x x x

EXPLANATION :- For the purpose of this notification :-

(a) - "Medicated or tonic wine" means a mixture or compound of any wine with medicinal substances, whether fortified with spirit or not, and includes medicated bitters; and

(b) - "Drakchasava, Asava or Arishta" means a liquid medicinal preparation containing self-generated alcohol, prepared by a process of fermentation, according to the recipes and directions laid down in the standard Ayurvedic treatises.

By order of the Governor of Bombay,

Secretary to Government.

BKS. 19/6/ 40.

Legal Department.

As regards the draft Order on page 3 ante, the Special Officer, Political and Services Department (Mr. Tukol) has stated on page 37 ante that the Political and Services Department is applying the Bombay Prohibition Act, 1949, to the Baroda State. It is also understood from him that the Bombay Opium Smoking Act and the Dangerous Drugs Act are also being applied to that State. It is, therefore, not necessary to issue the proposed Order separately.

2. The draft notifications on pages 19 and 23, as amended, are in order.

3. As regards draft notification No. 3 on page 27 ante, attention is invited to the draft notification under Section 105 of the Bombay Prohibition Act, 1949, furnished to Revenue Department with legal Department Memorandum No. 8083 dated 18th July 1949. As revenue Department will presumably issue the notification before the 31st July 1949, it is not necessary t.. issue the notification on page 27 ante.

Id/-J.R.D. 25/7
Additional Secretary to Government

U.R. to R.D. No. 8387 ,dated the 25th July 1949.

BKS. 19/6/ 4c.

Legal Department.

The draft notification at page 15 ante as slightly amended is in order.

Id/-J.B.D. 21/11
Additional Secretary to Government.

U.R. to R.D., No. 13303 ,dated the 22nd November 1949.

BKS. 19/6/ 4c.

NOTIFICATION.

Revenue Department,

Bombay Castle, November 1949.

Bombay Prohibition Act, 1949.

No. .-In exercise of the powers conferred by section 6 of the Bombay Prohibition Act, 1949 (Bom. XXV of 1949), the Government of Bombay is pleased to amend the Government Notification, Revenue Department, No.10484/45(3), dated the 16th June 1949 as follows, namely :-

In Schedule A to the said Notification :-

(1) - in column 3, against the entry at serial No. 20 -"Superintendents of Police" entry (ii) shall be deleted;

(2) - in column 3, against the entry at serial No.21 - "District Superintendents of Police and Additional District Superintendents of Police" - the existing entry shall be numbered as entry "(i)" and the following new entry shall be added therein, namely :-

(ii) Powers under sections 100 and 101".

By order of the Governor of Bombay,

Secretary to Government.

BKS. 19/6/ 4c.